

**IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL**

Criminal Misc. Application No. 827 of 2005

Mahendra Singh S/o Sri Than Singh
R/o Village Maira
P.O. Bhaun
Patti Iriyakot
District Pauri Garhwal

... Applicant

Versus

1. State of Uttaranchal
2. Sessions Judge, Pauri
District Pauri Garhwal

... Respondents

Hon'ble B.C. Kandpal, J.

This petition under Section 482 Cr.P.C. has been filed by the petitioner against the order dated 07.10.2005 by which the learned court below has directed to frame the charges against the petitioner under Sections 363, 366, 368, 376 I.P.C.

Brief facts of the case are that a First Information Report was lodged by Surender Singh under Sections 363, 366, 368, 376 I.P.C. against the petitioner and two others. After investigation of the case, the chargesheet was submitted against the petitioner in the court of C.J.M., Pauri Garhwal. Thereafter the case was committed to the court of Sessions Judge on 30.06.2005.

The Sessions Judge on 06.10.2005 fixed the case for arguments on the charge and on 07.10.2005, the charges were framed against the accused persons including the petitioner.

Against the aforesaid order, this petition has been preferred against the framing of the charges.

Heard learned counsel for the petitioner, learned A.G.A. and perused the record.

Learned counsel for the petitioner has argued that the impugned order dated 07.10.2005 nowhere shows that the petitioner was heard

before framing the charge. He has also submitted that the case under Section 363, 366, 368, 376 I.P.C. is not made out against the petitioner.

I do not find any force in the argument advanced by the learned counsel for the petitioner.

The contention raised by the learned counsel for the petitioner relates to the factual aspect of the matter and that can be examined and assessed by the trial court. I am not supposed to give a premature decision in a case wherein the entire facts are extremely incomplete and hazy, more so when the evidence has not been collected and produced before the court and the issues involved whether factual or legal are of great magnitude and cannot be seen in their true perspective without sufficient material.

I do not find any special feature in this case to say that it is not expedient and not in the interest of justice to permit the prosecution to continue.

I do not find any substance in the argument advanced by the learned counsel for the petitioners.

I do not find any abuse of process of court, which may call for any interference by way of exercising the inherent power under Section 482 Cr.P.C.

Accordingly, the petition under Section 482 Cr.P.C. is dismissed in limine.

(B.C. Kandpal, J.)

24.11.2005
ASWAL